

# **EXHIBIT A**

ORIGINAL

CM-010

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):

William M. Audet, Esq. (Bar No. 117456)

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221 Main Street, Suite 1460, San Francisco, CA 94105.

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ATTORNEY FOR (Name): Roberson, et al.

SUPERIOR COURT OF CALIFORNIA, COUNTY OF San Francisco

STREET ADDRESS: 400 McAllister St.

MAILING ADDRESS:

CITY AND ZIP CODE: San Francisco, CA 94102-4515

BRANCH NAME: Unlimited Civil Division

CASE NAME:

Roberson, et al. v. Bristol-Myers Squibb Company, et al.

## CIVIL CASE COVER SHEET

- ☒ **Unlimited** (Amount demanded exceeds \$25,000) ☐ **Limited** (Amount demanded is \$25,000 or less)

## Complex Case Designation

- ☐ **Counter** ☐ **Joinder**

Filed with first appearance by defendant  
(Cal. Rules of Court, rule 3.402)

CASE NUMBER:

CGC 13-533539

JUDGE:

DEPT:

FOR COURT USE ONLY

FILED

SUPERIOR COURT  
COUNTY OF SAN FRANCISCO

2013 AUG 13 PM 4:04

CLERK OF THE COURT

BY:

DEPUTY CLERK

MARY ANN MORAN

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

## Auto Tort

- ☐ Auto (22)  
☐ Uninsured motorist (46)

## Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort

- ☐ Asbestos (04)  
☐ Product liability (24)  
☐ Medical malpractice (45)  
☐ Other PI/PD/WD (23)

## Non-PI/PD/WD (Other) Tort

- ☐ Business tort/unfair business practice (07)  
☐ Civil rights (08)  
☐ Defamation (13)  
☐ Fraud (16)  
☐ Intellectual property (19)  
☐ Professional negligence (25)  
☐ Other non-PI/PD/WD tort (35)

## Employment

- ☐ Wrongful termination (36)  
☐ Other employment (15)

## Contract

- ☐ Breach of contract/warranty (06)  
☐ Rule 3.740 collections (09)  
☐ Other collections (09)  
☐ Insurance coverage (18)  
☐ Other contract (37)

## Real Property

- ☐ Eminent domain/Inverse condemnation (14)  
☐ Wrongful eviction (33)  
☐ Other real property (26)

## Unlawful Detainer

- ☐ Commercial (31)  
☐ Residential (32)  
☐ Drugs (38)

## Judicial Review

- ☐ Asset forfeiture (05)  
☐ Petition re: arbitration award (11)  
☐ Writ of mandate (02)  
☐ Other judicial review (39)

Provisionally Complex Civil Litigation  
(Cal. Rules of Court, rules 3.400-3.403)

- ☐ Antitrust/Trade regulation (03)  
☐ Construction defect (10)  
☒ Mass tort (40)  
☐ Securities litigation (28)  
☐ Environmental/Toxic tort (30)  
☐ Insurance coverage claims arising from the above listed provisionally complex case types (41)

## Enforcement of Judgment

- ☐ Enforcement of judgment (20)

## Miscellaneous Civil Complaint

- ☐ RICO (27)  
☐ Other complaint (not specified above) (42)

## Miscellaneous Civil Petition

- ☐ Partnership and corporate governance (21)  
☐ Other petition (not specified above) (43)

2. This case ☒ is ☐ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:

- a. ☒ Large number of separately represented parties  
b. ☒ Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve  
c. ☒ Substantial amount of documentary evidence  
d. ☒ Large number of witnesses  
e. ☒ Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court  
f. ☒ Substantial postjudgment judicial supervision

3. Remedies sought (check all that apply): a. ☒ monetary b. ☒ nonmonetary; declaratory or injunctive relief c. ☒ punitive

4. Number of causes of action (specify): Twelve

5. This case ☐ is ☒ is not a class action suit.

6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: August 13, 2013

Joshua C. Ezrin

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

## NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2

BY FAX



**ORIGINAL****BY FAX**

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Attorneys for Plaintiffs

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SAN FRANCISCO

**FILED**

Superior Court of California  
 County of San Francisco

AUG 13 2013

CLERK OF THE COURT

BY: Mary Ann Moran  
 Deputy Clerk

*Summons  
 Issued*

LEON ROBERSON, EDITH DOBERSTEIN,  
 IRVING EPSTEIN, KIM B. LOPEZ,  
 ROBERT C. LOUGH, RUTH LOYD,  
 ELEANOR MALAM, JAMES MARTIN,  
 JAMIE MATTILA, individually, and as  
 successor-in-interest on behalf of the Estate of  
 MARGARET BARTNICKI, MAUREEN A.  
 MCCOY, IMOGENE MCCURLEY, ANN  
 MCGOVERN, MAGGIE BREWER,  
 MICHAEL MILLER, JESSE MOORE,  
 individually, and as successor-in-interest on  
 behalf of the Estate of POLLY MOORE,  
 FARNK MORMUR, KENNETH MORRILL,  
 MARY C. MOXLEY, VALMORE NADIN,  
 WALTER NAGORSKI, ALEX NAHORNEY,  
 CAROL A. NEBEL, WILLIAM NEWMAN,  
 MARY NIET, individually, and as successor-  
 in-interest on behalf of the Estate of FRANK  
 NIET, LARRY NOBLE, LINDA NOELL,  
 JOHN NORMAN, HAROLD OAKS,  
 REBECCA PAYNE, HANS J. PFEIFFER,  
 AUDREY PUGH, individually, and as  
 successor-in-interest on behalf of the Estate of  
 ROBBIE LEE PUGH, JUDITH RANDALL,  
 NEIL REDDINGTON, DAVID RIPPER,  
 JUNE MILLER RUBY, individually, and as  
 successor-in-interest on behalf of the Estate of  
 HELEN MILLER, SAM SALUZZI, ROGER

Case No. **CGC 13-533539**

**COMPLAINT FOR DAMAGES AND  
 DEMAND FOR JURY TRIAL**

1. Strict Products Liability
2. Strict Liability – Manufacturing Defect
3. Negligence
4. Breach of Implied Warranty
5. Breach of Express Warranty
6. Deceit by Concealment – Ca. Civ. Code §§ 1709, 1710
7. Negligent Misrepresentation
8. Fraud by Concealment
9. Violation of Cal. Bus. & Prof. Code § 17200
10. Violation of Cal. Bus. & Prof. Code § 17500
11. Violation of Cal. Civ. Code § 1750
12. Wrongful Death

SCHULSTAD, JOHN SCHWEGMAN,  
NATHANIEL, RUTH SEEGER, GEORGE A.  
SELLERY, FRANK SHABAZIAN,  
SHERWIN SILVERMAN, ALMAJEANE  
SMITH, BARBARA SMITH, DALE SNOW,  
MARLYN STREET, RONALD F.  
SWANSON, DIANA TAYLOR, individually,  
and as successor-in-interest on behalf of the  
Estate of DON SMART, WILMA J.  
TAYLOR, PEGGY A. TETEN, ANNETTE  
THOMAS, ELIZABETH TOMPKINS,  
individually, and as successor-in-interest on  
behalf of the Estate of DOUGLAS SMITH,  
LEROY TURCHIN, RENE VILLARREAL,  
JIMMY WALKER, EDWARD WALLER,  
individually, and as successor-in-interest on  
behalf of the Estate of MARY WALLER,  
CONNIE WAPP, individually, and as  
successor-in-interest on behalf of the Estate of  
WILLIAM WHITESELL.

Plaintiffs,

vs.

BRISTOL-MYERS SQUIBB COMPANY,  
SANOFI-AVENTIS U.S. LLC., SANOFI-  
AVENTIS U.S., INC., SANOFI-  
SYNTHELABO, INC., MCKESSON  
CORPORATION, and DOES 1 to 100,

Defendants.

1 COME NOW Plaintiffs, and each of them, and complain and allege against Defendants,  
2 Does 1 through 75, and each of them as follows:

3 **GENERAL ALLEGATIONS**

4 1. This action involve claims of death, personal injury, economic damages, punitive  
5 damages, and other claims of damage arising from the use of Plavix, a pharmaceutical  
6 compound researched, designed, formulated, compounded, tested, manufactured, produced,  
7 processed, assembled, inspected, distributed, marketed, labeled, promoted, packaged, advertised  
8 for sale, prescribed or otherwise placed in the stream of interstate commerce by Defendants  
9 BRISTOL-MYERS SQUIBB COMPANY ("BMS"); SANOFI-AVENTIS U.S. LLC.; SANOFI-  
10 AVENTIS U.S., INC.; and/or SANOFI-SYNTHELABO, INC. ("SANOFI") and marketed, sold,  
11 and distributed by Defendant MCKESSON CORPORATION ("McKesson") and is brought on  
12 behalf of the named plaintiffs, collectively referred to herein as "Plaintiffs". This action seeks,  
13 among other relief, general and special damages and equitable relief in order to enable the living  
14 Plaintiffs who ingested Plavix to treat and monitor the dangerous, severe and life threatening  
15 side effects caused by this drug, including but not limited to gastrointestinal bleeding, bleeding  
16 ulcers, TTP, and other injuries.

17 2. The true names or capacities whether individual, corporate or otherwise, of  
18 Defendants Does 1 through 75, inclusive, are unknown to Plaintiffs who therefore, pursuant to  
19 *California Code of Civil Procedure* §474, sue said Defendants by such fictitious names.  
20 Plaintiffs believe and allege that each of the Defendants designated herein by fictitious names is  
21 in some manner legally responsible for the events and happenings herein referred to and caused  
22 damages proximately and foreseeably to Plaintiffs as alleged herein.

23 3. At all times herein mentioned, each of the Defendants was the agent, servant,  
24 partner, aider and abettor, co-conspirator and joint venturer of each of the remaining Defendants  
25 herein and were at all times operating and acting within the purpose and scope of said agency,  
26 service, employment, partnership, conspiracy and joint venture and rendered substantial  
27 assistance and encouragement to the other Defendants, knowing that their conduct constituted a  
28 breach of duty.



1           4.       There exists, and at all times herein mentioned, there existed, a unity of interest  
2 in ownership between certain Defendants and other certain Defendants such that any  
3 individuality and separateness between the certain Defendants has ceased and these Defendants  
4 are the alter ego of the other certain Defendant, and exerted control over those Defendants.  
5 Adherence to the fiction of the separate existence of these certain Defendants as any entity  
6 distinct from other certain Defendants will permit an abuse of the corporate privilege and would  
7 sanction fraud and would promote injustice.

8           5.       The injuries and damages to Plaintiffs were caused by the wrongful acts,  
9 omissions, and fraudulent representations of Defendants, many of which occurred within the  
10 State of California.

11           6.       At all times herein mentioned, Defendants were each engaged in the business of,  
12 or were successors in interest to, entities engaged in the business of research, designing,  
13 formulating, compounding, testing, manufacturing, producing, processing, assembling,  
14 inspecting, distributing, marketing, labeling, promoting, packaging and/or advertising for sale or  
15 selling the drug Plavix.

16           7.       At all times herein mentioned, Defendants were each authorized to do business  
17 within the State of California and did in fact supply the aforementioned products within the  
18 State of California.

19           8.       At all times herein mentioned, the officers and directors of Defendants authorized  
20 and directed the production and promotion of the aforementioned products when they knew, or  
21 with the exercise of reasonable care should have known, of the hazards and dangerous  
22 propensities of said products, and thereby actively participated in the tortious conduct which  
23 resulted in the physical injuries described herein.

24                               **JURISDICTION AND VENUE**

25           9.       Plaintiffs are informed and believe, and thereon allege that at all times herein  
26 mentioned each of the Defendants hereto are individuals, corporations, partnerships and/or  
27 unincorporated associations organized and existing under and by virtue of the laws of the State  
28 of California, or the laws of some other state or foreign jurisdiction, and that said Defendants,

1 and each of them, were and are authorized to do and are doing business in the State of  
2 California, or the laws of some other state or foreign jurisdiction, and that said Defendants, and  
3 each of them, were and are authorized to do and are doing business in the State of California,  
4 and that said Defendants have regularly conducted business in the County of San Francisco,  
5 State of California.

6 10. Venue is proper in this county because at least one Defendant, McKesson  
7 Corporation, has its principal place of business in the County of San Francisco, State of  
8 California.

9 11. Defendants and all Plaintiffs herein entered into a tolling agreement beginning on  
10 March 13, 2007, wherein new Plaintiffs were added each month thereafter by written notice to  
11 Defendants, and continuing until sixty (60) days after notice of termination. The tolling  
12 agreement in exchange for the Plaintiffs forbearance of filing lawsuits tolled the statute of  
13 limitations against all Plaintiffs until written notice was given that the tolling agreement was to  
14 be terminated. Thus the entire period of tolling is excluded from any statute of limitations  
15 calculation.

#### 16 PLAINTIFFS

17 12. Plaintiff LEON ROBERSON is a natural person currently residing in California.  
18 Plaintiff ROBERSON was prescribed and ingested Plavix thereafter suffering severe physical,  
19 economic and emotional injuries as a result of said Plavix, including but not limited to  
20 gastrointestinal bleeding. Plaintiff ROBERSON was unaware that his injuries were caused by  
21 Defendants until within two years of filing this complaint.

22 13. Plaintiff EDITH DOBERSTEIN is a natural person currently residing in New  
23 jersey. Plaintiff DOBERSTEIN was prescribed and ingested Plavix thereafter suffering severe  
24 physical, economic and emotional injuries as a result of said Plavix, including but not limited to  
25 gastrointestinal bleeding. Plaintiff DOBERSTEIN was unaware that her injuries were caused by  
26 Defendants until within two years of filing this complaint.

27 14. Plaintiff IRVING EPSTEIN is a natural person currently residing in New York.  
28 Plaintiff EPSTEIN was prescribed and ingested Plavix thereafter suffering severe physical,

1 economic and emotional injuries as a result of said Plavix, including but not limited to a TTP.  
2 Plaintiff EPSTEIN was unaware that her injuries were caused by Defendants until within two  
3 years of filing this complaint.

4 15. Plaintiff KIM B. LOPEZ is a natural person currently residing in Florida.  
5 Plaintiff LOPEZ was prescribed and ingested Plavix thereafter suffering severe physical,  
6 economic and emotional injuries as a result of said Plavix, including but not limited to  
7 gastrointestinal bleeding. Plaintiff LOPEZ was unaware that her injuries were caused by  
8 Defendants until within two years of filing this complaint.

9 16. Plaintiff ROBERT C. LOUGH is a natural person currently residing in Florida.  
10 Plaintiff LOUGH was prescribed and ingested Plavix thereafter suffering severe physical,  
11 economic and emotional injuries as a result of said Plavix, including but not limited to excessive  
12 bleeding. Plaintiff LOUGH was unaware that his injuries were caused by Defendants until  
13 within two years of filing this complaint.

14 17. Plaintiff RUTH LOYD is a natural person currently residing in Ohio. Plaintiff  
15 LOYD was prescribed and ingested Plavix thereafter suffering severe physical, economic and  
16 emotional injuries as a result of said Plavix, including but not limited to excessive bleeding.  
17 Plaintiff LOYD was unaware that his injuries were caused by Defendants until within two years  
18 of filing this complaint.

19 18. Plaintiff ELEANOR MALAM is a natural person currently residing in Missouri.  
20 Plaintiff MALAM was prescribed and ingested Plavix thereafter suffering severe physical,  
21 economic and emotional injuries as a result of said Plavix, including but not limited to excessive  
22 bleeding. Plaintiff MALAM was unaware that his injuries were caused by Defendants until  
23 within two years of filing this complaint.

24 19. Plaintiff JAMES MARTIN is a natural person currently residing in Missouri.  
25 Plaintiff MARTIN was prescribed and ingested Plavix thereafter suffering severe physical,  
26 economic and emotional injuries as a result of said Plavix, including but not limited to excessive  
27 bleeding. Plaintiff MARTIN was unaware that his injuries were caused by Defendants until  
28 within two years of filing this complaint.



1           20. Plaintiff JAMIE MATTILA as successor-in-interest on behalf of the Estate of  
2 MARGARET BARTNICKI, and individually, is a natural person currently residing in  
3 Wisconsin and is the heir of decedent BARTNICKI. Decedent BARTNICKI was prescribed  
4 and ingested Plavix thereafter suffering severe physical, economic and emotional injuries as a  
5 result of said Plavix, including but not limited to excessive bleeding. Plaintiff MATTILA was  
6 unaware that decedent's injuries were caused by Plavix until within two years of filing this  
7 complaint.

8           21. Plaintiff MAUREEN A. MCCOY, is a natural person currently residing in  
9 Florida. Plaintiff MCCOY was prescribed and ingested Plavix thereafter suffering severe  
10 physical, economic and emotional injuries as a result of said Plavix, including but not limited to  
11 gastrointestinal bleeding. Plaintiff MCCOY was unaware that his injuries were caused by  
12 Defendants until within two years of filing this complaint.

13           22. Plaintiff IMOGENE MCCURLEY, is a natural person currently residing in  
14 Missouri. Plaintiff MCCURLEY was prescribed and ingested Plavix thereafter suffering severe  
15 physical, economic and emotional injuries as a result of said Plavix, including but not limited to  
16 gastrointestinal bleeding. Plaintiff MCCURLEY was unaware that his injuries were caused by  
17 Defendants until within two years of filing this complaint.

18           23. Plaintiff ANN MCGOVERN, is a natural person currently residing in Maryland.  
19 Plaintiff MCGOVERN was prescribed and ingested Plavix thereafter suffering severe physical,  
20 economic and emotional injuries as a result of said Plavix, including but not limited to  
21 gastrointestinal bleeding. Plaintiff MCGOVERN was unaware that his injuries were caused by  
22 Defendants until within two years of filing this complaint.

23           24. Plaintiff MAGGIE BREWER, is a natural person currently residing in Kansas.  
24 Plaintiff BREWER was prescribed and ingested Plavix thereafter suffering severe physical,  
25 economic and emotional injuries as a result of said Plavix, including but not limited to  
26 gastrointestinal bleeding. Plaintiff BREWER was unaware that his injuries were caused by  
27 Defendants until within two years of filing this complaint.

28           25. Plaintiff MICHAEL MILLER, is a natural person currently residing in Alabama.

1 Plaintiff MILLER was prescribed and ingested Plavix thereafter suffering severe physical,  
2 economic and emotional injuries as a result of said Plavix, including but not limited to  
3 gastrointestinal bleeding. Plaintiff MILLER was unaware that his injuries were caused by  
4 Defendants until within two years of filing this complaint.

5 26. Plaintiff JESSE MOORE as successor-in-interest on behalf of the Estate of  
6 POLLY MOORE, and individually, is a natural person currently residing in North Carolina and  
7 is the heir of decedent MOORE. Decedent MOORE was prescribed and ingested Plavix  
8 thereafter suffering severe physical, economic and emotional injuries as a result of said Plavix,  
9 including but not limited to excessive bleeding. Plaintiff MOORE was unaware that decedent's  
10 injuries were caused by Plavix until within two years of filing this complaint.

11 27. Plaintiff FRANK MORMUR is a natural person currently residing in Florida.  
12 Plaintiff MORMUR was prescribed and ingested Plavix thereafter suffering severe physical,  
13 economic and emotional injuries as a result of said Plavix, including but not limited to bleeding  
14 ulcers. Plaintiff MORMUR was unaware that his injuries were caused by Defendants until  
15 within two years of filing this complaint.

16 28. Plaintiff KENNETH MORRILL is a natural person currently residing in  
17 Connecticut. Plaintiff MORRILL was prescribed and ingested Plavix thereafter suffering  
18 severe physical, economic and emotional injuries as a result of said Plavix, including but not  
19 limited to bleeding ulcers. Plaintiff MORRILL was unaware that his injuries were caused by  
20 Defendants until within two years of filing this complaint.

21 29. Plaintiff MARY C. MOXLEY is a natural person currently residing in Florida.  
22 Plaintiff MOXLEY was prescribed and ingested Plavix thereafter suffering severe physical,  
23 economic and emotional injuries as a result of said Plavix, including but not limited to bleeding  
24 ulcers. Plaintiff MOXLEY was unaware that his injuries were caused by Defendants until within  
25 two years of filing this complaint.

26 30. Plaintiff VALMORE NADIN is a natural person currently residing in Florida.  
27 Plaintiff NADIN was prescribed and ingested Plavix thereafter suffering severe physical,  
28 economic and emotional injuries as a result of said Plavix, including but not limited to bleeding

1 ulcers. Plaintiff NADIN was unaware that her injuries were caused by Defendants until within  
2 two years of filing this complaint.

3 31. Plaintiff WALTER NAGORSKI is a natural person currently residing in  
4 Kansas. Plaintiff NAGORSKI was prescribed and ingested Plavix thereafter suffering severe  
5 physical, economic and emotional injuries as a result of said Plavix, including but not limited to  
6 bleeding ulcers. Plaintiff NAGORSKI was unaware that her injuries were caused by Defendants  
7 until within two years of filing this complaint.

8 32. Plaintiff ALEX NAHORNEY is a natural person currently residing in Texas.  
9 Plaintiff NAHORNEY was prescribed and ingested Plavix thereafter suffering severe physical,  
10 economic and emotional injuries as a result of said Plavix, including but not limited to bleeding  
11 ulcers. Plaintiff NAHORNEY was unaware that her injuries were caused by Defendants until  
12 within two years of filing this complaint.

13 33. Plaintiff CAROL A. NEBEL is a natural person currently residing in Iowa.  
14 Plaintiff NEBEL was prescribed and ingested Plavix thereafter suffering severe physical,  
15 economic and emotional injuries as a result of said Plavix, including but not limited to bleeding  
16 ulcers. Plaintiff NEBEL was unaware that her injuries were caused by Defendants until within  
17 two years of filing this complaint.

18 34. Plaintiff WILLIAM NEWMAN is a natural person currently residing in  
19 Minnesota. Plaintiff NEWMAN was prescribed and ingested Plavix thereafter suffering severe  
20 physical, economic and emotional injuries as a result of said Plavix, including but not limited to  
21 bleeding ulcers. Plaintiff NEWMAN was unaware that her injuries were caused by Defendants  
22 until within two years of filing this complaint.

23 35. Plaintiff MARY NIET as successor-in-interest on behalf of the Estate of FRANK  
24 NIET, and individually, is a natural person currently residing in Missouri and is the heir of  
25 decedent NIET. Decedent NIET was prescribed and ingested Plavix thereafter suffering severe  
26 physical, economic and emotional injuries as a result of said Plavix, including but not limited to  
27 excessive bleeding. Plaintiff NIET was unaware that decedent's injuries were caused by Plavix  
28 until within two years of filing this complaint.



1           36. Plaintiff LARRY NOBLE is a natural person currently residing in Kansas.  
2 Plaintiff NOBLE was prescribed and ingested Plavix thereafter suffering severe physical,  
3 economic and emotional injuries as a result of said Plavix, including but not limited to bleeding  
4 ulcers. Plaintiff NOBLE was unaware that her injuries were caused by Defendants until within  
5 two years of filing this complaint.

6           37. Plaintiff LINDA NOELL is a natural person currently residing in Illinois.  
7 Plaintiff NOWELL was prescribed and ingested Plavix thereafter suffering severe physical,  
8 economic and emotional injuries as a result of said Plavix, including but not limited to bleeding  
9 ulcers. Plaintiff NOWELL was unaware that her injuries were caused by Defendants until  
10 within two years of filing this complaint.

11           38. Plaintiff JOHN NORMAN is a natural person currently residing in Missouri.  
12 Plaintiff NORMAN was prescribed and ingested Plavix thereafter suffering severe physical,  
13 economic and emotional injuries as a result of said Plavix, including but not limited to bleeding  
14 ulcers. Plaintiff NORMAN was unaware that her injuries were caused by Defendants until  
15 within two years of filing this complaint.

16           39. Plaintiff HAROLD OAKS is a natural person currently residing in Ohio. Plaintiff  
17 OAKS was prescribed and ingested Plavix thereafter suffering severe physical, economic and  
18 emotional injuries as a result of said Plavix, including but not limited to bleeding ulcers.  
19 Plaintiff OAKS was unaware that her injuries were caused by Defendants until within two years  
20 of filing this complaint.

21           40. Plaintiff REBECCA PAYNE is a natural person currently residing in Alabama.  
22 Plaintiff PAYNE was prescribed and ingested Plavix thereafter suffering severe physical,  
23 economic and emotional injuries as a result of said Plavix, including but not limited to bleeding  
24 ulcers. Plaintiff PAYNE was unaware that his injuries were caused by Defendants until within  
25 two years of filing this complaint.

26           41. Plaintiff HANS J. PFEIFFER is a natural person currently residing in Florida.  
27 Plaintiff PFEIFFER was prescribed and ingested Plavix thereafter suffering severe physical,  
28 economic and emotional injuries as a result of said Plavix, including but not limited to

1 gastrointestinal bleeding. Plaintiff PFEIFFER was unaware that his injuries were caused by  
2 Defendants until within two years of filing this complaint.

3 42. Plaintiff AUDREY PUGH as successor-in-interest on behalf of the Estate of  
4 ROBBIE LEE PUGH, and individually, is a natural person currently residing in Missouri and is  
5 the heir of decedent PUGH. Decedent PUGH was prescribed and ingested Plavix thereafter  
6 suffering severe physical, economic and emotional injuries as a result of said Plavix, including  
7 but not limited to excessive bleeding. Plaintiff PUGH was unaware that decedent's injuries were  
8 caused by Plavix until within two years of filing this complaint.

9 43. Plaintiff JUDITH RANDALL is a natural person currently residing in Florida.  
10 Plaintiff RANDALL was prescribed and ingested Plavix thereafter suffering severe physical,  
11 economic and emotional injuries as a result of said Plavix, including but not limited to excessive  
12 bleeding. Plaintiff RANDALL was unaware that her injuries were caused by Defendants until  
13 within two years of filing this complaint.

14 44. Plaintiff NIEL REDDINGTON is a natural person currently residing in  
15 Pennsylvania. Plaintiff REDDINGTON was prescribed and ingested Plavix thereafter  
16 suffering severe physical, economic and emotional injuries as a result of said Plavix, including  
17 but not limited to excessive bleeding. Plaintiff REDDINGTON was unaware that her injuries  
18 were caused by Defendants until within two years of filing this complaint.

19 45. Plaintiff DAVID RIPPER is a natural person currently residing in Missouri.  
20 Plaintiff RIPPER was prescribed and ingested Plavix thereafter suffering severe physical,  
21 economic and emotional injuries as a result of said Plavix, including but not limited to excessive  
22 bleeding. Plaintiff RIPPER was unaware that her injuries were caused by Defendants until  
23 within two years of filing this complaint.

24 46. Plaintiff JUNE MILLER RUBY as successor-in-interest on behalf of the Estate  
25 of HELEN MILLER, and individually, is a natural person currently residing in North Carolina  
26 and is the heir of decedent MILLER. Decedent MILLER was prescribed and ingested Plavix  
27 thereafter suffering severe physical, economic and emotional injuries as a result of said Plavix,  
28 including but not limited to excessive bleeding. Plaintiff RUBY was unaware that decedent's

1 injuries were caused by Plavix until within two years of filing this complaint.

2 47. Plaintiff SAM SALUZZI is a natural person currently residing in Missouri.  
3 Plaintiff SALUZZI was prescribed and ingested Plavix thereafter suffering severe physical,  
4 economic and emotional injuries as a result of said Plavix, including but not limited to excessive  
5 bleeding. Plaintiff SALUZZI was unaware that her injuries were caused by Defendants until  
6 within two years of filing this complaint.

7 48. Plaintiff ROGER SCHULSTAD is a natural person currently residing in  
8 Oklahoma. Plaintiff SCHULSTAD was prescribed and ingested Plavix thereafter suffering  
9 severe physical, economic and emotional injuries as a result of said Plavix, including but not  
10 limited to excessive bleeding. Plaintiff SCHULSTAD was unaware that her injuries were caused  
11 by Defendants until within two years of filing this complaint.

12 49. Plaintiff JOHN SCHWEGMAN is a natural person currently residing in  
13 Minnesota. Plaintiff SCHWEGMAN was prescribed and ingested Plavix thereafter suffering  
14 severe physical, economic and emotional injuries as a result of said Plavix, including but not  
15 limited to excessive bleeding. Plaintiff SCHWEGMAN was unaware that her injuries were  
16 caused by Defendants until within two years of filing this complaint.

17 50. Plaintiff NATHANIEL SCOTT is a natural person currently residing in  
18 Mississippi. Plaintiff SCOTT was prescribed and ingested Plavix thereafter suffering severe  
19 physical, economic and emotional injuries as a result of said Plavix, including but not limited to  
20 excessive bleeding. Plaintiff SCOTT was unaware that her injuries were caused by Defendants  
21 until within two years of filing this complaint.

22 51. Plaintiff RUTH SEEGER is a natural person currently residing in Wisconsin.  
23 Plaintiff SEEGER was prescribed and ingested Plavix thereafter suffering severe physical,  
24 economic and emotional injuries as a result of said Plavix, including but not limited to excessive  
25 bleeding. Plaintiff SEEGER was unaware that her injuries were caused by Defendants until  
26 within two years of filing this complaint.

27 52. Plaintiff GEORGE A. SELLERY is a natural person currently residing in  
28 Florida. Plaintiff SELLERY was prescribed and ingested Plavix thereafter suffering severe



1 physical, economic and emotional injuries as a result of said Plavix, including but not limited to  
2 excessive bleeding. Plaintiff SELLERY was unaware that her injuries were caused by  
3 Defendants until within two years of filing this complaint.

4 53. Plaintiff FRANK SHABAZIAN is a natural person currently residing in New  
5 York. Plaintiff SHABAZIAN was prescribed and ingested Plavix thereafter suffering severe  
6 physical, economic and emotional injuries as a result of said Plavix, including but not limited to  
7 excessive bleeding. Plaintiff SHABAZIAN was unaware that her injuries were caused by  
8 Defendants until within two years of filing this complaint.

9 54. Plaintiff SHERWIN SILVERMAN is a natural person currently residing in  
10 Minnesota. Plaintiff SILVERMAN was prescribed and ingested Plavix thereafter suffering  
11 severe physical, economic and emotional injuries as a result of said Plavix, including but not  
12 limited to excessive bleeding. Plaintiff SILVERMAN was unaware that her injuries were caused  
13 by Defendants until within two years of filing this complaint.

14 55. Plaintiff ALMAJENE SMITH is a natural person currently residing in Missouri.  
15 Plaintiff SMITH was prescribed and ingested Plavix thereafter suffering severe physical,  
16 economic and emotional injuries as a result of said Plavix, including but not limited to excessive  
17 bleeding. Plaintiff SMITH was unaware that her injuries were caused by Defendants until within  
18 two years of filing this complaint.

19 56. Plaintiff BARBARA SMITH is a natural person currently residing in Missouri.  
20 Plaintiff SMITH was prescribed and ingested Plavix thereafter suffering severe physical,  
21 economic and emotional injuries as a result of said Plavix, including but not limited to  
22 gastrointestinal bleeding. Plaintiff SMITH was unaware that her injuries were caused by  
23 Defendants until within two years of filing this complaint.

24 57. Plaintiff DALE SMITH is a natural person currently residing in Missouri.  
25 Plaintiff SMITH was prescribed and ingested Plavix thereafter suffering severe physical,  
26 economic and emotional injuries as a result of said Plavix, including but not limited to  
27 gastrointestinal bleeding. Plaintiff SMITH was unaware that her injuries were caused by  
28 Defendants until within two years of filing this complaint.

1           58. Plaintiff MARLYN STREET is a natural person currently residing in Florida.  
2 Plaintiff STREET was prescribed and ingested Plavix thereafter suffering severe physical,  
3 economic and emotional injuries as a result of said Plavix, including but not limited to excessive  
4 bleeding. Plaintiff STREET was unaware that his injuries were caused by Defendants until  
5 within two years of filing this complaint.

6           59. Plaintiff RONALD F. SWANSON is a natural person currently residing in  
7 Minnesota. Plaintiff SWANSON was prescribed and ingested Plavix thereafter suffering severe  
8 physical, economic and emotional injuries as a result of said Plavix, including but not limited to  
9 excessive bleeding. Plaintiff SWANSON was unaware that his injuries were caused by  
10 Defendants until within two years of filing this complaint.

11           60. Plaintiff DIANA TAYLOR, as successor-in-interest on behalf of the Estate of  
12 DON SMART and individually, is a natural person currently residing in Missouri and is the heir  
13 of decedent SMART. Decedent SMART was prescribed and ingested Plavix thereafter suffering  
14 severe physical, economic and emotional injuries as a result of said Plavix, including but not  
15 limited to bleeding ulcers. Plaintiff TAYLOR was unaware that decedent's injuries were caused  
16 by Plavix until within two years of filing this complaint.

17           61. Plaintiff WILMA J. TAYLOR is a natural person currently residing in Missouri.  
18 Plaintiff TAYLOR was prescribed and ingested Plavix thereafter suffering severe physical,  
19 economic and emotional injuries as a result of said Plavix, including but not limited to excessive  
20 bleeding. Plaintiff TAYLOR was unaware that his injuries were caused by Defendants until  
21 within two years of filing this complaint.

22           62. Plaintiff PEGGY A. TETEN is a natural person currently residing in Florida.  
23 Plaintiff TETEN was prescribed and ingested Plavix thereafter suffering severe physical,  
24 economic and emotional injuries as a result of said Plavix, including but not limited to excessive  
25 bleeding. Plaintiff TETEN was unaware that his injuries were caused by Defendants until within  
26 two years of filing this complaint.

27           63. Plaintiff ANNETTE THOMAS is a natural person currently residing in Texas.  
28 Plaintiff THOMAS was prescribed and ingested Plavix thereafter suffering severe physical,

1 economic and emotional injuries as a result of said Plavix, including but not limited to excessive  
2 bleeding. Plaintiff THOMAS was unaware that his injuries were caused by Defendants until  
3 within two years of filing this complaint.

4 64. Plaintiff ELIZABETH TOMPKINS, as successor-in-interest on behalf of the  
5 Estate of DOUGLAS SMITH and individually, is a natural person currently residing in  
6 Arkansas and is the heir of decedent SMITH. Decedent SMITH was prescribed and ingested  
7 Plavix thereafter suffering severe physical, economic and emotional injuries as a result of said  
8 Plavix, including but not limited to bleeding ulcers. Plaintiff TOMPKINS was unaware that  
9 decedent's injuries were caused by Plavix until within two years of filing this complaint.

10 65. Plaintiff LEROY TURCHIN is a natural person currently residing in Minnesota.  
11 Plaintiff TURCHIN was prescribed and ingested Plavix thereafter suffering severe physical,  
12 economic and emotional injuries as a result of said Plavix, including but not limited to excessive  
13 bleeding. Plaintiff TURCHIN was unaware that his injuries were caused by Defendants until  
14 within two years of filing this complaint.

15 66. Plaintiff RENE VILLAREEAL is a natural person currently residing in Florida.  
16 Plaintiff VILLAREEAL was prescribed and ingested Plavix thereafter suffering severe physical,  
17 economic and emotional injuries as a result of said Plavix, including but not limited to excessive  
18 bleeding. Plaintiff VILLAREEAL was unaware that his injuries were caused by Defendants  
19 until within two years of filing this complaint.

20 67. Plaintiff JIMMY WALKER is a natural person currently residing in Alabama.  
21 Plaintiff WALKER was prescribed and ingested Plavix thereafter suffering severe physical,  
22 economic and emotional injuries as a result of said Plavix, including but not limited to excessive  
23 bleeding. Plaintiff WALKER was unaware that his injuries were caused by Defendants until  
24 within two years of filing this complaint.

25 68. Plaintiff EDWARD WALLER, as successor-in-interest on behalf of the Estate of  
26 MARY WALLER and individually, is a natural person currently residing in Ohio and is the heir  
27 of decedent WALLER. Decedent WALLER was prescribed and ingested Plavix thereafter  
28 suffering severe physical, economic and emotional injuries as a result of said Plavix, including



1 but not limited to bleeding ulcers. Plaintiff WALLER was unaware that decedent's injuries were  
2 caused by Plavix until within two years of filing this complaint.

3 69. Plaintiff CONNIE WAPP, as successor-in-interest on behalf of the Estate of  
4 WILLIAM WHITESELL and individually, is a natural person currently residing in Kansas and  
5 is the heir of decedent WHITESELL. Decedent WHITESELL was prescribed and ingested  
6 Plavix thereafter suffering severe physical, economic and emotional injuries as a result of said  
7 Plavix, including but not limited to bleeding ulcers. Plaintiff WAPP was unaware that  
8 decedent's injuries were caused by Plavix until within two years of filing this complaint.

9 **DEFENDANTS**

10 70. Defendant McKesson Corporation is a pharmaceutical distribution and marketing  
11 company organized and existing under the laws of the State of Delaware, with its headquarters  
12 at One Post Street, San Francisco, California 94104.

13 71. Defendant Bristol-Myers Squibb Company (hereinafter referred to as "BMS" or  
14 "Manufacturing Defendant(s)") is a pharmaceutical manufacturing and marketing company that  
15 manufactures and markets Plavix in the United States. The headquarters for Bristol-Myers  
16 Squibb Company is located at 345 Park Avenue, New York, New York, 10145-0037.

17  
18 72. Defendant, Sanofi-Aventis U.S. LLC is a subsidiary of the French pharmaceutical  
19 company, Sanofi-Aventis, which partners with Defendant Bristol-Myers Squibb Company to  
20 manufacture and market Plavix in the United States. The American base for Sanofi-Aventis U.S.  
21 LLC is 400 Somerset Corporate Boulevard, SC4-310A, Bridgewater, New Jersey, 08807-0912.

22  
23 73. Defendant Sanofi-Aventis U.S., Inc., is a subsidiary of the French pharmaceutical  
24 company, Sanofi-Aventis, which partners with Defendant Bristol-Myers Squibb Company to  
25 manufacture and market Plavix in the United States. The American base for Sanofi-Aventis  
26 U.S., Inc., is 400 Somerset Corporate Boulevard, SC4-310A, Bridgewater, New Jersey, 08807-  
27 0912.  
28

76. When referring collectively to all Defendants in this action, Plaintiffs will use the term “Defendants”.

77. This is an action for injuries and damages suffered by Plaintiffs, and each of them, as a direct and proximate result of the Defendants' negligent and wrongful conduct in connection with the design, development, manufacture, testing, packaging, promoting, marketing, distribution, labeling, and/or sale of Plavix.

79. The Sanofi Defendants and BMS co-developed Plavix, applying in April 1997 for a rare, priority regulatory review by the FDA (Food and Drug Administration), which cleared the way for the Defendants to bring Plavix to market in November 1998.

81. Plavix was heavily marketed directly to consumers through television, magazine and Internet advertising. It was touted as a “super-aspirin,” that would give a person even greater cardiovascular benefits than a much less expensive, daily aspirin, while being safer and easier on a person’s stomach than aspirin. Those assertions have proven to be false.

82. The truth is, that BMS and Sanofi always knew, or if they had paid attention to the findings of their own studies, should have known, that Plavix was not more efficacious than

1 aspirin to prevent heart attacks and strokes. More importantly though, Defendants knew or  
2 should have known that when taking Plavix, the risk of suffering a heart attack, stroke, internal  
3 bleeding, blood disorder, or death far outweigh any potential benefit.

4 83. Still, BMS and Sanofi continued to exaggerate the results of their own studies and  
5 to make false statements in their advertising and promotional materials for the purpose of  
6 increasing their profit from Plavix sales.

7 84. The profit at stake for the Defendants is enormous. By way of illustration, in  
8 2005, Plavix was the sixth top selling drug in the United States and the Defendants enjoy annual  
9 sales of Plavix totaling \$3.8 Billion Dollars.

10 85. BMS and the Sanofi Defendants repeatedly thwarted the law and their duty to tell  
11 the public the truth about the drug they were over-promoting for profit. The FDA issued  
12 numerous letters insisting these Defendants stop their misleading, over-promoting practices.

13 86. As examples, in 1998, the FDA requested the Defendants stop promoting Plavix  
14 for off-label use in patients receiving arterial stents. In the same reprimand, the FDA noted that  
15 not only were the Defendants marketing Plavix to physicians for a treatment for which it had not  
16 been approved, but also were recommending that a non-FDA-approved dosage nearly four (4)  
17 times that of other applications be given.

18 87. That same FDA warning criticized the Defendants' attempts at over-promotion of  
19 Plavix for unapproved use for lacking fair balance and failing to disclose any of the risks  
20 associated with its use. In particular, the FDA criticized that the Defendants were claiming to  
21 physicians, in their promotional letter, that Plavix was safe for use with other drugs. This, said  
22 the FDA, was overstating the safety profile of Plavix. In particular, its safety when combined  
23 with aspirin (known as "dual therapy") had not been established, yet Defendants were making a  
24 claim that the dual combination therapy of aspirin plus Plavix was safe. This claim has now been  
25 proven to be untrue in a recent study called CHARISMA (The Clopidogrel for High  
26 Atherothrombotic Risk and Ischemic Stabilization, Management, and Avoidance), which was  
27 reported on in *The New England Journal of Medicine*, April 20, 2006.  
28



1           88. Again in 1998, the FDA issued a letter demanding the Defendants immediately  
2 cease distribution of advertising materials that claimed that Plavix has been proven to be more  
3 effective than aspirin. The FDA criticized this marketing ploy as an overstatement of efficacy  
4 that is lacking in fair balance and unsubstantiated.

5           89. Undaunted, the Defendants were back in the business of hiding bad facts about  
6 their drug and fabricating more favorable information so they could sell large quantities of Plavix  
7 and make giant corporate profits. In 2001, the FDA was again forced to order Defendants to  
8 immediately cease distribution of promotional material that made unsubstantiated claims about  
9 Plavix and was misleading. Specifically, the Defendants promotional material misled consumers  
10 about their own study, called CAPRIE, (Clopidogrel Versus Aspirin in Patients at Risk of  
11 Ischemic Events). While the Defendants' trumped-up promotional material claimed that Plavix  
12 was 19.2% better than Aspirin, the actual findings of the CAPRIE study were that Plavix was not  
13 proven to be significantly more effective than aspirin—providing a 2.9% reduction in ischemic  
14 events versus a 3.47% reduction of ischemic events for the study participants who had been given  
15 aspirin. Defendants again claimed that the use of Plavix combined with aspirin was safe and  
16 effective, and again, the FDA forced Defendants to stop saying that because it had not been  
17 proven to be true.

18           90. In addition to misinforming physicians and the public through their advertising to  
19 consumers and promotional materials for doctors, Defendants' drug representatives have also  
20 misinformed physicians about the proper types of patients who should be given Plavix, the  
21 duration of its proper usage, and the applications for which it is safe and FDA approved.

22           91. Defendants, through their drug representatives, and their promotional efforts, have  
23 encouraged physicians to prescribe Plavix to a broad population of people who would receive the  
24 same therapeutic benefit from aspirin alone, (without risking death) and to use Plavix for  
25 unapproved applications.

26           92. The result is that physicians are prescribing Plavix to people who could be  
27 cheaply and effectively protected against ischemic events by a simple aspirin, to pay  
28

1 approximately four dollars (\$4) a day for a dose of Plavix.

2 93. Defendants' nearly eight-year run of lying to physicians and the public about the  
3 safety and efficacy of Plavix for the sole purpose of increasing corporate profits has now been  
4 uncovered by scientific studies which reveal that not only is Plavix not worth its high price—it is  
5 dangerous.

6 94. The Chan study, written about in *The New England Journal of Medicine* and  
7 named for the scientific researcher who conducted it, showed the fallacy of Defendants'  
8 assertions that Plavix is safer and more effective for patients who have a gastrointestinal  
9 intolerance to aspirin. The Chan study compared the effects of Aspirin and Plavix on patients  
10 who had previously had stomach ulcers that had healed. In that group, the incidence of recurring  
11 stomach bleeding was 8.6% in the Plavix group versus only .7% in the aspirin group. Dr. Chan  
12 recommended that the prescribing guidelines for Plavix be changed so that patients would not  
13 erroneously believe that Plavix is safer on the stomach than aspirin.

14 95. The Chan study also uncovered the fact that an aspirin a day plus esomeprazole  
15 (the generic name for a cheap, over the counter proton pump inhibitor like Prilosec) is far more  
16 cost effective for the consumer than paying for a four- dollar (\$4) a-day Plavix pill that greatly  
17 increases the risk of stomach bleeding.

18 96. Most recently, the CHARISMA (Clopidogrel and aspirin Versus Aspirin Alone  
19 For The Prevention of Atherothrombotic Events) study uncovered another truth about Plavix. It  
20 found that Plavix plus aspirin (dual therapy) is only minimally more effective than aspirin plus  
21 placebo at preventing atherothrombotic events. But more importantly, it found that in patients  
22 who do not have peripheral arterial disease (PAD) or acute coronary syndrome (ACS), Plavix  
23 plus aspirin (dual therapy) poses a 20% increased risk to the patient of suffering bleeding  
24 injuries, heart attacks, stroke and death. In other words, in those patients without ACS or PAD,  
25 dual therapy with aspirin and Plavix does more harm than good.

26 97. Despite the growing body of scientific knowledge that the four-dollar (\$4) Plavix  
27 pill was not much better than a five-cent-a-day aspirin, Defendants kept promoting it to the  
28

1 public and to physicians, using hyperbole and outright falsification in the process.

2 **FIRST CAUSE OF ACTION**  
 3 **[Strict Products Liability – Design Defect]**

4 98. Ingesting Plaintiffs, Survival Plaintiffs and Heir Plaintiffs hereby incorporate by  
 5 reference all previous paragraphs of this Complaint as if fully set forth herein and further alleges  
 6 as to Defendants, and each of them, as follows:

7 99. The Plavix manufactured and supplied by Defendants was defective and unsafe  
 8 for its intended purpose in that the ingestion of Plavix causes serious injuries and/or death. The  
 9 defect existed in said product at the time it left the possession of the Defendants and each of  
 10 them. Said product did, in fact, cause personal injuries as described herein while being used in a  
 11 reasonably foreseeable manner, thereby rendering the same defective, unsafe, and dangerous for  
 12 use.

13 100. The Plavix manufactured and supplied by Defendants was placed into the stream  
 14 of commerce by Defendants in a defective and unreasonably dangerous condition in that the  
 15 foreseeable risks exceeded the benefits associated with the design or formulation.

16 101. Alternatively, the Plavix manufactured and supplied by Defendants was defective  
 17 in design or formulation in that when it was placed in the stream of commerce in that it failed to  
 18 perform as safely as an ordinary consumer would expect and was more dangerous than other  
 19 anticoagulant therapies.

20 102. The Plavix manufactured and supplied by Defendants was also defective due to  
 21 inadequate warning or instruction because the Defendants knew or should have known that the  
 22 product created a serious risk of harm to consumers and Defendants failed to adequately warn  
 23 consumers of said risks, including Ingesting Plaintiffs and Decedents.

24 103. Defendants, and each of them, knew and intended that Plavix would be used by  
 25 the ordinary purchaser or user without inspection for defects therein and without knowledge of  
 26 the hazards involved in such use.

27 104. The Plavix manufactured and supplied by Defendants was defective due to  
 28 inadequate warning and inadequate testing.



1           105. The Plavix manufactured and supplied by Defendants was defective due to  
2 inadequate post-market warnings and instructions, because Defendants knew or should have  
3 known of the risk of serious injury from Plavix, however said Defendants failed to provide  
4 adequate warnings to users and consumers of the product, including Ingesting Plaintiffs and  
5 Decedents, and continued to promote the product.

6           106. On or before all times relevant to this matter, Defendants, and each of them, were  
7 aware that members of the general public, including Ingesting Plaintiffs and Decedents, who  
8 would ingest their product had no knowledge or information indicating that use of their product  
9 could cause injury, and said Defendants, and each of them, knew that members of the general  
10 public, including Ingesting Plaintiffs and Decedents, who used their product, would assume, and  
11 in fact did assume, that said use was safe, when in fact said use was extremely hazardous to  
12 health and human life.

13           107. With said knowledge, said Defendants, and each of them, opted to manufacture,  
14 design, label, distribute, offer for sale, supply, sell, package, and advertise said product without  
15 attempting to protect said product users from, or warn of, the high risk of injury or death  
16 resulting from its use.

17           108. Rather than attempting to protect users from, or warn them of, the high risk of  
18 injury or death resulting from use of their product, Defendants, and each of them, intentionally  
19 failed to reveal their knowledge of said risk, failed to warn of said risk and consciously and  
20 actively concealed and suppressed said knowledge from members of the general public,  
21 including Ingesting Plaintiffs and Decedents, thus impliedly representing to members of the  
22 general public that Plavix was safe for all reasonably foreseeable uses.

23           109. The above-referenced conduct of said Defendants, and each of them, was  
24 motivated by the financial interest of said Defendants, in the continuing, uninterrupted  
25 manufacture, supply, sale, marketing, packaging and advertising of Plavix.

26           110. In pursuance of said financial motivation, Defendants, and each of them,  
27 consciously disregarded the safety of users of their product and in fact were consciously willing  
28 and intended to permit Plavix to cause injury to users and induced persons to purchase and use

1 Plavix, including Plaintiffs herein.

2 111. Defendants, their "alternate entities," and each of them, and their officers,  
3 directors and managing agents participated in, authorized, expressly and impliedly ratified, and  
4 had full knowledge of, or should have known of, each of the acts set forth herein.

5 112. The herein-described conduct of said Defendants, and each of them, was and is  
6 willful, malicious, fraudulent, outrageous and in conscious disregard and indifference to the  
7 safety and health of the users of their product. Ingesting Plaintiffs and the Plaintiffs'  
8 representing the interests of Decedent's estates, for the sake of example and by way of  
9 punishing said defendants, seeks punitive damages according to proof.

10 113. As a proximate and legal result of the defective and unreasonably dangerous  
11 condition of Plavix tested, manufactured and supplied by Defendants, and the lack of adequate  
12 use instructions and warnings, Decedents were cause injury and death and Plaintiffs were  
13 caused to suffer and will continue to suffer the herein described injuries and damages.

14 WHEREFORE, said Plaintiffs pray for judgment against Defendants as hereinafter set  
15 forth.

16 **SECOND CAUSE OF ACTION**  
17 **[Strict Liability – Manufacturing Defect]**

18 114. Ingesting Plaintiffs, Survival Plaintiffs and Heir Plaintiffs hereby incorporate by  
19 reference all previous paragraphs of this Complaint as if fully set forth herein and further allege  
20 as to Defendants, and each of them, as follows:

21 115. At all times herein mentioned, Defendants' Plavix products were prescribed and  
22 used as intended by Defendants and in a manner reasonably foreseeable to Defendants.

23 116. The Plavix products were defective at the time of their manufacture,  
24 development, production, testing, inspection, endorsement, prescription, sale and distribution,  
25 and at the time they left the possession of the Defendants, in that, and not by way of limitation,  
26 the products differed from the Defendants' intended result and intended design and  
27 specifications, and from other ostensibly identical units of the same product line.

28 117. As a proximate and legal result of the defective condition of the Plavix,